

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:15 A.M. on March 17, 2008 in Room 783 of the Docking State Office Building.

All members were present except:

Oletha Faust-Goudeau-excused  
Dan Johnson-excused  
Judy Morrison-excused  
Cindy Neighbor-excused

Committee staff present:

Carol Toland, Kansas Legislative Research  
Melissa Doeblin, Revisor's Office  
Renaë Hansen, Committee Administrative Assistant

Conferees appearing before the committee:

Senator Roger Reitz  
John Grimwade, KCPL  
Mark Schrieber, Westar  
Tom Thompson, Sierra Club  
David Springe, CURB

Others attending:

Twenty-three including the attached list.

Hearing on:

**SB 586- Incentives to encourage development of nuclear power by utilities and authorizing recovers of certain costs.**

Proponents:

Senator Roger Reitz, 22<sup>nd</sup> District, (Attachment 1), presented testimony in support of **SB 586**, noting the bill allows the commission to fix fair and reasonable rates, and charges for the planning and feasibility of new nuclear power plants.

Questions were asked and comments made by Representatives: Vaughn Flora, and Tom Hawk.

John Grimwade, KCPL, (Attachment 2), offered testimony in support of **SB 586**, noting the length of time it will take to get a new plant up and running once a plant has been determined to be feasible to build. He noted the time needed to get the permits approved is just the first part of the entire regulatory process.

Questions were asked and comments made by Representatives: Annie Kuether, Terry McLachlan, Vern Swanson, Tom Sloan, Vaughn Flora, Tom Hawk, Carl Holmes, Forrest Knox, and Tom Moxley.

Mark Schreiber, Westar, (Attachment 3), offered testimony in support of **SB 586**. He thanked Senator Reitz for beginning the process of making a more favorable environment for expanded nuclear generation in the state of Kansas.

Questions were asked and comments made by Representatives: Vern Swanson, Tom Hawk, Terry McLachlan, Forrest Knox.

Opponents:

Tom Thompson, Sierra Club, (Attachment 4), gave testimony in opposition to **SB 586**. He noted that the enrichment of uranium takes thousand of megawatts of electricity which mostly comes from coal-fired power plants. Enrichment plants emit chlorofluorocarbons that are 10,000 times more potent as a global warming

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on March 17, 2008 in Room 783 of the Docking State Office Building.

gas than is CO<sub>2</sub>.

Questions were asked or comments made by Representatives: Don Myers, Tom Sloan, and Peggy Mast.

David Springe, CURB, (Attachment 5), presented testimony in opposition to **SB 586**. He noted this bill is merely an accounting bill and that it does not move forward the actual construction of a nuclear plant in the state of Kansas.

Questions were asked and comments made to all conferees by Representatives: Vaughn Flora, Carl Holmes, Tom Moxley, Forrest Knox, Tom Sloan, Vern Swanson, Peggy Mast, Rocky Fund, Vaughn Flora, Don Myers, and Richard Proehl.

Tom Day, KCC, also responded to a question.

The hearing on **SB 586** was closed.

The next meeting is scheduled for March 18, 2008.

The meeting was adjourned at 10:49 a.m.



ROGER REITZ

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TOPEKA

SENATE

COMMITTEE ASSIGNMENTS

MEMBER: COMMERCE  
ELECTIONS AND LOCAL GOVERNMENT  
FEDERAL AND STATE AFFAIRS  
UTILITIES

The nuclear energy bill authorizes an electrical utility to recover its expenditures for a study and allows recovery of feasibility costs for a new nuclear generation plant. This would be done by an adjustment of the utility's customers' bills. The request will be dealt within a timely and prudent manner and the commission can decide if the expenditures are appropriate.

Once a license has been obtained the utility shall be allowed to use a book depreciable life of not more than the amount of time remaining on the United States nuclear regulatory commission operating license of such facility.

The commission will be allowed to fix fair and reasonable rates, tolls and charges to the planning feasibility endeavor.

The bill notes that the property of any public utility which has not been completed shall not be deemed to be used and required to be used in the public utility's service to the public. The definition of a utility's project completion and dedication is described in the bill. A previous statutes exemption of electrical energy derived from a nuclear plant is omitted as would be expected from this initiative.

Roger P. Reitz M.D.  
Senator District 22

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ATTACHMENT 1

**Testimony of John Grimwade  
Before the House Energy and Utilities Committee  
In Support of Senate Bill 586  
March 17, 2008**

Kansas City Power & Light supports Senate Bill 586. SB 586 provides reasonable cost recovery mechanisms to promote additional investment in nuclear energy in Kansas.

KCP&L is a 47 percent owner of the Wolf Creek Nuclear Operating Station.

With broad concerns about looming regulations related to coal-fired generation to address climate change, a renewed interest in nuclear generation is occurring. We appreciate the committee's willingness and initiative in addressing the advantages and risks related to nuclear energy.

As KCP&L undergoes planning for future generation needs, nuclear is certain to be part of the consideration. SB 586 provides assurances that certain recovery methods will be available, to the benefit of customers, utilities and the state.

For your consideration, KCP&L suggests adding development costs to the list of recoverable items. This could be done in Section 1 as follows:

“New Section 1. On and after July 1, 2008, the state corporation commission, upon application and request, shall authorize an electric utility to recover the utility's prudent expenditures for *nuclear plant development costs which include preliminary engineering, study, and feasibility, prepayments for major equipment, and permitting costs for a new nuclear generation facility by an adjustment to the utility's rates.*”

Thank you for your consideration of this bill. We urge your support.

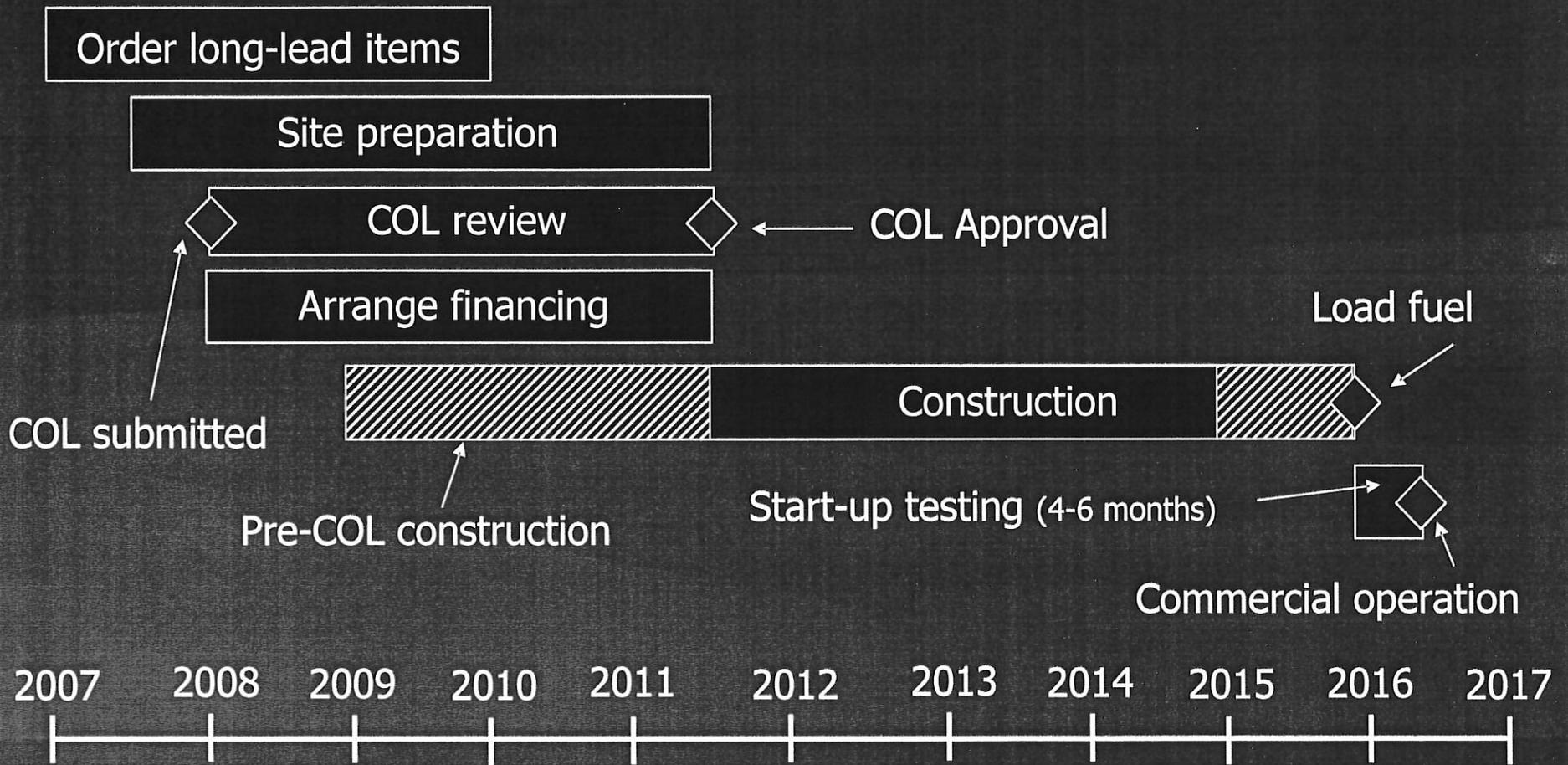
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John Grimwade  
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HOUSE ENERGY AND UTILITIES  
DATE: 3/17/2008  
ATTACHMENT 2-1

2-2

# The First Wave: From COLA to Commercial Operation



SENATE BILL No. 586

By Committee on Utilities

2-11

10 AN ACT concerning the state corporation commission; relating to nu-  
11 clear generation facilities; concerning recovery of certain costs; amend-  
12 ing K.S.A. 2007 Supp. 66-128 and repealing the existing section.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 New Section 1. On and after July 1, 2008, the state corporation com-  
16 mission, upon application and request, shall authorize an electric utility  
17 to recover the utility's prudent expenditures for ~~study and feasibility costs~~  
18 for a new nuclear generation facility by an adjustment to the utility's rates.  
19 The application and request shall be subject to such procedures and con-  
20 ditions, including review, ~~in an expedited manner~~, of the prudence of the  
21 expenditures and the reasonableness of the measures, as the commission  
22 deems appropriate.

23 New Sec. 2. An electric utility which receives on and after July 1,  
24 2008, a license to operate a nuclear generation facility from the United  
25 States nuclear regulatory commission shall be allowed to use a book de-  
26 preciable remaining life of not more than the amount of time remaining  
27 on the United States nuclear regulatory commission operating license of  
28 such facility.

29 Sec. 3. K.S.A. 2007 Supp. 66-128 is hereby amended to read as fol-  
30 lows: 66-128. (a) The state corporation commission shall determine the  
31 reasonable value of all or whatever fraction or percentage of the property  
32 of any common carrier or public utility governed by the provisions of this  
33 act which property is used and required to be used in its services to the  
34 public within the state of Kansas, whenever the commission deems the  
35 ascertainment of such value necessary in order to enable the commission  
36 to fix fair and reasonable rates, joint rates, tolls and charges. In making  
37 such valuations the commission may avail itself of any reports, records or  
38 other things available to the commission in the office of any national, state  
39 or municipal officer or board.

40 (b) (1) For the purposes of this act, except as provided by subsection  
41 (b)(2), property of any public utility which has not been completed and  
42 dedicated to commercial service shall not be deemed to be used and  
3 required to be used in the public utility's service to the public.

*nuclear plant development costs which include preliminary engineering,*

*prepayments for major equipment, and permitting*

2-3



MARK A. SCHREIBER  
Director, Government Affairs

Testimony of Mark Schreiber  
Before the House Energy and Utilities Committee  
On SB 586  
March 17, 2008

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to testify in support of Senate Bill 586.

The genesis of this bill came from testimony before the Senate Utilities Committee on January 23 by Jim Ludwig of Westar. At the request of the committee, he provided a status update of the nuclear industry including some conceptual statutory changes that could create a more favorable environment for the expansion of commercial nuclear power in Kansas. I would like to quote from Jim's testimony, "These suggestions, if enacted, should not be viewed as a guarantee that Westar or any other utility would build a new nuclear unit.....several obstacles still remain."

New Section 1 requires the KCC to authorize the recovery of prudent expenditures for study and feasibility costs for a new nuclear generation facility. These costs can be several million dollars. Such feasibility studies are needed prior to spending billions of dollars on a new plant to assess if a new nuclear generating facility in Kansas is feasible. At present, a utility may request recovery of these costs, but that recovery is at the discretion of the KCC.

New Section 2 requires that for ratemaking the depreciable remaining life cannot be more than the amount of time remaining on the NRC operating license. This change would prevent extending the remaining depreciable life past the normal 40-year licensed life of a nuclear plant until or unless the NRC extends the operating license, at which time the depreciable life can be extended to match.. Keeping remaining depreciable life consistent with licensed life is appropriate because a nuclear unit cannot be operated beyond its NRC license, so depreciation should match the remaining time on the license.

New Section 3 removes the exclusion for nuclear generation from the Construction Work In Progress (CWIP) statute. Last session, this legislature approved requiring CWIP for public utility projects, but nuclear generation was excluded. By the removal of the exclusion, if a utility decided to build a new

nuclear plant it could recover prudent costs as the plant was built. Recovery in this manner reduces the overall cost of the project by reducing carrying costs.

I want to specifically thank Senator Reitz for initiating this discussion. I urge the committee to support SB 586. I will stand for questions at the appropriate time.

**Testimony for the House Energy and Utilities Committee**  
**March 17, 2008**  
**Opposing S. B. 586**

Chairman Holmes and Honorable Members of the Committee, my name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I am here to oppose SB 586.

SB 586 allows for study and feasibility costs for a new nuclear power plant and for work on nuclear power plants not completed to be deemed completed and dedicated to commercial service.

This takes us back to last years debate concerning the words “may” and “shall” when applied to the K C C’s ability to allow what is often referred to as CWIP. Nuclear power plants are not currently included for this automatic consideration.

SB 586 appears to be designed to encourage the development of a new nuclear power plant. The Sierra Club opposes construction of nuclear power plants.

The Sierra Club opposes the construction of new nuclear power plants for a number of reasons. One is cost. Not only are nuclear power plants expensive, but are heavily subsidized by the federal government. The U.S. government subsidizes research and development, uranium enrichment, liability, decommissioning and other things. Despite this, they would still be expensive to build. The Sierra Club believes that this money would be more wisely spent developing clean renewable sources of energy found in Kansas and conservation and efficiency efforts.

Many have said that nuclear power is emission free so why doesn’t the Sierra Club support it? The enrichment of uranium takes thousands of megawatts of electricity, most of which comes from coal-fired power plants. Furthermore, enrichment plants emit chlorofluorocarbons that are 10,000 times more potent as a global warming gas as CO2. This does not include the millions of curies of

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radioactive isotopes released into the air and water every year that aren't regulated.

There is also the issue of storing the radioactive waste. Every year, 33 tons of waste is produced by each 1000-megawatt nuclear reactor. Currently, 88,000 tons of radioactive waste sits in cooling pools next to 108 U.S. nuclear plants. Where will it go? How long can we keep it safe? I have heard some legislators indicate it is going to Yucca Mountain in Nevada. Yucca Mountain is not accepting this waste. Senator Harry Reid of Nevada has indicated that Yucca Mountain will never be used for nuclear waste.

Sierra Club is also concerned about security. There is always uncertainty. In the case of nuclear power, it only takes one mishap to have major impact on a region.

The Sierra Club does not believe it to be good policy to encourage an expensive, highly subsidized, dangerous source of energy that contributes to global warming and has a waste disposal problem. It could be putting its efforts into encouraging clean renewable sources of energy that are abundant in Kansas and energy efficiency and conservation programs that help Kansans save money.

Thank you for this opportunity and your time. The Sierra Club hopes you will oppose S.B. 586.

Sincerely  
Tom Thompson  
Sierra Club

# Citizens' Utility Ratepayer Board

## Board Members:

Gene Merry, Chair  
Randy Brown, Vice-Chair  
Carol I. Faucher, Member  
Laura L. McClure, Member  
A. W. Dirks, Member



State of Kansas

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## HOUSE UTILITIES COMMITTEE S.B. 586

Testimony on Behalf of the Citizens' Utility Ratepayer Board  
By David Springe, Consumer Counsel  
March 17, 2008

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on S.B. 586. The Citizens' Utility Ratepayer Board opposed this bill for the following reasons:

Senate Bill 586 deals with regulatory cost recovery for utility expenditures related to nuclear power plant feasibility studies and nuclear plant construction.

Section 1 requires that the state corporation commission "shall" authorize an electric utility to recover the utility's prudent expenditures for study and feasibility costs for a new nuclear generation facility by an adjustment to the utility's rates. CURB would not be opposed to allowing these costs to be gathered under an accounting order such that the costs can be considered in the next general rate. This would be a more traditional means of handling these types of costs. To the extent that the existing bill has been amended to remove "in an expedited manner", and therefore the implication that these costs would be required to be dealt with on a single issue ratemaking basis between rate cases, CURB's concern with this section has been addressed.

Section 2 removes the commission's discretion to set appropriate depreciation rates for new nuclear plants by requiring that the utility "shall be allowed to use a book depreciable remaining life of not more than the amount of time remaining" on the operating license of the facility. Normally, the regulatory process attempts to set the depreciable life of a facility equal to the actual life of the facility. In this way, customers in each year over the life of the facility pay equally for the depreciation of the facility. If a facility is expected to last 40 years, you would want to depreciate that facility over 40 years such that each year an equal amount of depreciation expense is charged to customers. Conversely, if you depreciate a 40 year facility over 20 years, the customers in the first twenty years pay twice as much depreciation expense in rates, forcing rates higher, while the customers in the second twenty years pay nothing for depreciation expense. This forces up rates to customers in the early years of the plant and has always been considered inequitable. The customers in the second 20 years get a free ride at the expense of the earlier customers.

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Restricting the commission's authority to set an appropriate depreciable life for facilities removes an important protection for consumers. In the Westar Rate case (01-WSRE-436-RTS) the commission extended the depreciable life of Wolf Creek to 60 years, from 40 years. This was based on the expectation that Westar, and the other owners of Wolf Creek, would seek a license extension on the plant and that the license extension would be granted. The Commission adjusted the depreciable life such that it was consistent with the expected life of the plant. By doing so, customers saw a reduction in rates due to a lower level of depreciation expense in rates. The Commission actions were consistent with good regulatory practice and provided a substantial benefit to consumers. The language contained Section 2 of the bill would have prevented the commission from acting to benefit customers in the Westar case. The legislature should not restrict the commission's authority to set depreciation rates in an appropriate manner. To do so may force rates up to the customers in the early years of the plant.

Section 3 of the bill deletes section (b)(3) of K.S.A. 2007 Supp. 66-128. Section (b)(3) in current law precludes the cost of a nuclear generation facility under construction from being placed in consumers rates prior to being completed and dedicated to commercial service.

K.S.A 66-128(b)(1) is specific in that "***property of any public utility which has not been completed and dedicated to commercial service shall not be deemed used and required to be used***" in the public utility's service to the public. However the legislature functionally gutted this law last year in passing HB 2033, such that K.S.A. 66-128(b)(2), now states "any public utility property described in (b)(1) ***shall be deemed completed and dedicated to utility service*** if:....(C) the property is an electric generation facility or addition to an electric generation facility."

The cost associated with generation facilities that are being constructed can be put in consumer rates, even though the facilities are not finished and not providing power to the customers that must pay for the facility. The only remaining exception to this rule is for the cost of nuclear plants under construction. CURB does not believe it is a good policy to make customers pay for a generating plant that is not operating and providing those customers power. CURB also does not believe that customers will accept paying for a nuclear plant before it is operational.

For the above reasons, CURB recommends that this bill not be passed by the committee.